

Message Text

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ACTION L-03

INFO OCT-01 IO-15 ISO-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

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TAGS: UNGA, PINS

SUBJECT: UNGA--LEGAL COMMITTEE--PROTECTION OF DIPLOMATS

1. LEGAL COMMITTEE DISCUSSED ILC TEXT OF AND AMENDMENTS
TO ARTICLE 2 OF DRAFT CONVENTION ON PROTECTION OF
DIPLOMATS OCT 10. MAIN ISSUES WERE WHETHER TO LIST
CRIMES AND TYPE OF JURISDICTION PROVISION.

2. CRIMES COVERED UNDER CONVENTION. UK SUPPORTED
BELGIAN AMENDMENT TO ARTICLE 2(1)(B) (A/C.6/L.904)
(TRANSMITTED USUN 3747) AS CONTAINING GOOD BALANCE, IN
ITS SPECIFIC REFERENCE TO "MURDER AND KIDNAPPING" AS
WELL AS COVERING "OTHER SERIOUS ATTACKS". APPROVING
GENERAL APPROACH OF BELGIAN FORMULA WERE PHILIPPINES,
UK, OMAN, FRG AND SWEDEN. OTHER DELEGATIONS FAVORED
ILC TEXT: BRAZIL (DESIRES MAINTAIN TEXT AND STRONGLY
AGAINST BRINGING IN MOTIVE AND ASYLUM ELEMENTS), CANADA,
PAKISTAN AND BYELORUSSIA (LATTER WITH SOVIET AMENDMENT).
BELGIAN AMENDMENT ALSO FAVORED BY YUGOSLAVIA DEL (WHICH
WOULD ALSO DESIRE INCLUSION OF INCITEMENT AND
CONSPIRACY AS CRIMES) WITH CZECHOSLOVAKIA, EXPRESSING
NO OBJECTION. BELGIAN AMENDMENT TO 1(B) TO SUBSTITUTE
"SERIOUS" FOR "VIOLENT" SUPPORTED BY YUGOSLAVIA AND GREECE.
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CZECHOSLOVAKIA OFFERED NO OBJECTION TO 1(B) BUT FELT
PROPOSAL TO PARAGRAPH 2 TO DELETE "WHICH TAKE INTO ACCOUNT
AGGRAVATED NATURE OF THE OFFENSE" UNNECESSARY. SPANISH
AMENDMENTS TO ARTICLE 2 (A/C.6/L.913) (TRANSMITTED USUN

3779) ARE UNNECESSARY, STATED CANADA, AND INTRODUCED NEW TERMS, CAUTIONED BYELORUSSIA. OMAN SUGGESTED LEAVING CRIMINAL PENALTIES TO EACH STATE LEGISLATURE AND RAISED PROBLEM OF EXTENDING COMPETENCE OF COURTS FOR CRIMES NOT COMMITTED INSIDE TERRITORY. FAVORING SPANISH FORMULA TO BEGIN ARTICLE 2 WITH "ANY PERSON" WERE UGANDA AND ECUADOR (LATTER ALSO THOUGHT TERM "UNLAWFULLY" USEFUL ADDITION). REGARDING "PARTICIPATION" ELEMENT INTRODUCED BY SPAIN, UGANDA SUPPORTED AS GIVING MORE EFFECTIVENESS TO CONVENTION, WHILE CANADA FELT SPANISH AMENDMENT GENERALLY UNNECESSARY. USSR AMENDMENTS TO ARTICLE 2 (A/C.6/L.906) (TRANSMITTED USUN 3750) RECEIVED GENERAL SUPPORT BY BRAZIL, YUGOSLAVIA, BYELORUSSIA AND CZECHOSLOVAKIA. OPPOSED WERE CANADA, UK (DIFFICULT TO APPLY) AND SWEDEN (LACKING IN PRECISION), WHILE GREECE LIKED BECAUSE SIMILAR TO BELGIAN AMENDMENT. REGARDING JAPANESE AMENDMENTS TO ARTICLE 2 (A/C.6/L.912)(TRANSMITTED USUN 3780) PROPOSAL TO ADD IN PARAGRAPH 1(D) AFTER "ATTACK" "IN SO FAR AS A SIMILAR ATTEMPT IS IN GENERAL PUNISHABLE UNDER INTERNAL LAW OF STATE PARTY CONCERNED", CZECHOSLOVAKIA EXPRESSED STRONG DISAPPROVAL STATING THAT IF DOMESTIC LEGISLATION CONTRARY TO CONVENTION THERE MUST BE ADJUSTMENT TO INTERNATIONAL REQUIREMENTS. ALSO OPPOSED WERE CANADA, FRG, UK, AND GREECE. PROPOSAL TO ADD "UNLESS IT IS ESTABLISHED THAT ALLEGED OFFENDER HAD NEITHER KNOWLEDGE OF, NOR REASON TO KNOW, OFFICIAL STATUS OF VICTIM" OPPOSED BY CANADA, US, FRG (ILC "INTENTIONAL" SERVES PURPOSE OF KNOWLEDGE ELEMENT), BYELORUSSIA (HINDERS APPLICATION), AND PHILIPPINES (CONFUSING AND WILL BE USED AS DEFENSE FOR OFFENDER).

3. JURISDICTIONAL ISSUE. PHILIPPINES, UGANDA, OMAN AND SWEDEN FAVORED UNIVERSAL JURISDICTION SET UP BY JAPAN'S PROPOSAL AND GREECE CONSIDERED IT ESSENTIAL ELEMENT. SUB-AMENDMENT TO JAPANESE AMENDMENT PROPOSED BY NETHERLANDS (A/C.6/L.915) TO ADD NEW PARAGRAPH TO JAPANESE ARTICLE 2(A) AS FOLLOWS: "3. THIS CONVENTION DOES NOT EXCLUDE ANY CRIMINAL JURISDICTION EXERCISED IN UNCLASSIFIED

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ACCORDANCE WITH NATIONAL LAW", ACCEPTABLE TO CANADA, FRG AND PHILIPPINES. NOT ALL DELEGATES DISCUSSED ASYLUM ISSUE RAISED BY MEXICO BUT THOSE WHO DID EXPRESSED STRONG VIEWS ON MATTER. CANADA STATED THAT IF PROVISION ON ASYLUM INCLUDED, WOULD ACT AS AN ESCAPE CLAUSE TO APPLICATION OF CONVENTION. UK EXPRESSED GREAT APPREHENSION OVER MATTER AND PREDICTED EFFECTIVENESS OF CONVENTION IMPAIRED. GREECE CHARACTERIZED ASYLUM AS MATTER OF "REGIONAL INTERNATIONAL LAW" WHICH COULD UNDERMINE RAISON D'ETRE OF CONVENTION. ECUADOR FELT OAS ARTICLE 2 MORE SUITABLE TO DETERMINE WHERE SPECIAL PROTECTION EXTENDED. VENEZUELA FELT IT NECESSARY TO ADHERE TO EXISTING CONVENTIONS PROTECTING RIGHT TO ASYLUM AND

OFFERED TO COSPONSOR SEPARATE ARTICLE TO BE PROPOSED BY
MEXICO.

4. ARGENTINA INTRODUCED ITS AMENDMENT (A/C.6/L.919)
(TRANSMITTED USUN 3810).

5. COMMITTEE APPEARS TO BE NEAR END OF FIRST READING OF
ARTICLE 2. WITH OCT 11 DEVOTED TO ILC RESOLUTION AND
OCT 12 TO ILC 25TH ANNIVERSARY CELEBRATION, 6TH COMMITTEE
CONTINUES ITS PLENARY WORK OCT 15.
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